

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#9 / Response

10-20-00

L. Spruell

In re Patent Application of

Group Art Unit: 2818

ELIYAHOU HARARI and  
SANJAY MEHROTRA

Serial No.: 09/310,880

Filed: May 14, 1999

For: FLASH EEPROM SYSTEM

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TECHNOLOGY CENTER 2800

San Francisco, California

Assistant Commissioner of Patents  
Washington, D.C. 20231

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on October 12, 2000.

*Sandy Ellsworth*  
Sandy Ellsworth

10/12/00  
Date

RESPONSE TO OFFICE ACTION

Sir:

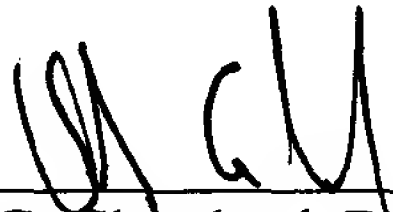
These remarks are in response to the Office Action mailed on July 11, 2000, that rejected claims 63-75 under 35 U.S.C. 102(e) as anticipated by U.S. patent no. 5,774,395, issued to Richart et al. and rejected claims 76-80 under 35 U.S.C. 102(e) as anticipated by U.S. patent no. 5,828,601, issued to Hollmer et al. The Office Action is correct in that these two sets of claims are each from these respective patents. They have been copied for purposes of an Interference, a Request for which is currently being prepared. It is respectfully submitted, however, that the a rejection under 35 U.S.C. 102(e) based upon either of these two patents is improper.

35 U.S.C. 102(e) states that "[a] person shall be entitled to a patent unless the invention was described in a patent granted on an application by another filed in the United States *before* the invention thereof by the applicant..."[emphasis added]. As stated in the "Cross-Reference to Related Applications" section of the material inserted into the specification by the Preliminary Amendment filed concurrently with the present application and also as shown on the Filing Receipt, the present application is entitled to an effective filing date of April 13, 1989. This is before the filing date of either patent 5,774,395 of Richart et al., with a filing date of November 27, 1996, or patent 5,828,601 of Hollmer et al., with a filing date of December 1, 1993. Thus, neither of these patents is applicable as prior art under 35 U.S.C. 102(e).

For these reasons, claims 63-80 are believed allowable and an early indication of their allowability is solicited. As noted above, a Request for Interference with patent 5,774,395 of Richart et al. and patent 5,828,601 of Hollmer et al. is currently being prepared. Additionally, the three Information Disclosure Statements submitted for the present application have not been considered and returned.

Dated: October 12, 2000.

Respectfully submitted,

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Atty. Docket: HARI.006USX